

REMARKS/ARGUMENTS

Claims 1-14 are pending in this application.

In the final Office Action claim 1 was rejected under 35 U.S.C. §112, second paragraph as being indefinite. Further, claims 1, 3-4, 6, 10 and 12-14 were rejected under 35 U.S.C. §103 as being unpatentable over Oscar in view of Ullman and further in view of Freeman Jr. et al.

Claim 2 has also been rejected under 35 U.S.C. §103 as being unpatentable over Oscar in view of Ullman and Freeman Jr. and Judge.

Claims 5, 7-9 and 11 stand rejected under 35 U.S.C. §103 as being unpatentable over Oscar in view of Ullman and further in view of Freeman and Mayaud.

First, Applicant wishes to explain the present invention.

As explained in the description of the prior art, a problem with many discount prescription plans is that there is no incentive for the pharmacy supplying the prescription to ensure that a discount is provided to the subscriber to the plan, i.e., to the patient. These discount plans typically require the subscriber to pay the entire amount of the prescription price, thus, in effect, the subscriber is paying a 100% co-pay meaning the subscriber is paying for the entire subscription price. The plans are supposed to provide a discount in the price so the subscriber obtains a benefit even though paying 100% of the prescription price because the prescription is priced at a discount. However, as pointed out in the background of the invention, there is no assurance that the pharmacy is actually providing the discounted price because there is no mechanism or incentive to ensure that the discounted price is charged to the subscriber.

The present invention provides a way to ensure that the pharmacy provides the subscriber with the discounted price. The subscriber is still paying 100% of the price, but the price is a discounted price. This is referred to as 100% co-pay because the subscriber pays the entire discounted price. However, according to the invention, the price is divided into a co-pay which is a portion of the discounted price that is paid directly to the pharmacy and a balance. The balance of the discounted price (which includes two service fees, as described below), is charged to the subscriber's credit or debit charge account.

According to the invention, in order to ensure that the pharmacy gives the discounted price, the payment of the balance of the discounted price (i.e., the price less the co-

pay), is made by the prescription benefits manager, i.e., PBM, which adjudicates each prescription with the pharmacy. Thus, the pharmacy must deal with the PBM to obtain the payment from the PBM. Accordingly, the pharmacy receives two payments, the co-pay from the subscriber and the payment from the PBM, called the “second payment” in claim 1.

Claim 1 recites the steps of establishing a prescription benefits manager to administer the prescription benefits plan. This includes establishing a prescription claims processor that receives the claims for the prescription benefits from a participating pharmacy, adjudicates the claims in accordance with the subscriber’s eligibility profile and on approval of the claim charges the subscriber’s credit account for accepted claims. The amount of the charge is equal to the discounted price of the prescription minus a predetermined co-payment which is tendered by the subscriber to the pharmacy at the time of fulfilling the prescription. Thus, the subscriber pays the co-payment, which is typically some fraction of the discounted price, and the balance representing the difference between the discounted price and the co-payment is then charged to the subscriber’s credit or debit card account. Therefore, the subscriber pays only the discounted price because the pharmacy must deal for adjudication of the claim with the prescription benefits manager. The pharmacy must charge the discounted price because it must deal with the PBM to obtain the balance of the payment. There is no teaching or suggestion in the prior art cited of the invention as claimed.

Claim 1 further recites the payments that are thereafter made. The creditor, i.e., the institution with which the subscriber has a credit or debit account, makes a first payment to the prescription benefits manager. The first payment is equal to the amount charged to the subscriber’s account (the discounted price less the co-payment) minus a first predetermined service fee to be retained by the creditor. The first predetermined service fee is the credit or debit card institution’s fee for handling the transaction.

Now that the PBM has been paid the first payment, the PBM makes a second payment, which is funded from the first payment, to the pharmacy. The second payment is equal to a predetermined portion of the prescription price. Recall that the pharmacy has already received the co-payment from the subscriber. This second payment, which is a predetermined portion of the discounted prescription price, together with the already received co-payment, means that the pharmacy has now been paid in full. The second payment is less than the first

payment, which is, in turn less than the amount charged to the subscriber's account. This is because the first service fee is deducted to result in the first payment. Thereafter, the first payment funds the second payment and a third payment.

The third payment represents a second predetermined service fee that is paid to the claims processor for its services in performing the adjudication.

The net result, however, is that the subscriber pays the discounted prescription price because the pharmacy is forced to process the claim through the prescription benefits manager which ensures that the discounted price is applied. Accordingly, the sum of the predetermined co-payment and amount charged to the subscriber's account is the discounted prescription price.

The patient (subscriber) pays the discounted price which equals the co-pay plus the amount charged to the patient's account. The pharmacy receives the co-pay plus the second payment, the latter being less than the amount charged to the subscriber's account by the first and second service fees (paid respectively, to the creditor and the claims processor for handling). The invention provides a means for insuring that the pharmacy provides a discounted price because in order to receive the second payment (funded from the first payment from the creditor), it must deal with the PBM. There is no suggestion of the invention claimed in the prior art references.

The Examiner also rejected claim 1 under 35 U.S.C. §112, second paragraph as being indefinite.

It is submitted that the amended claims clarify the claimed method and in view of the amended claims, the rejection under §112 should now be withdrawn. As explained above, the second payment (to the pharmacy) and the third payment (second service fee) by the prescription benefits manager are funded from the first payment made by the creditor, i.e., the account holding institution, to the prescription benefits manager.

The language that the Examiner objected to with respect to the 100% subscriber co-pay has been removed from the claim. The only co-payment is the predetermined co-payment which is tendered by the subscriber to the pharmacy at the time of fulfilling the prescription. However, as pointed out, the subscriber is still paying 100% of the discounted price of the prescription but it is made in steps. The subscriber only pays the predetermined co-payment at the time of filling the prescription and the balance of the discounted price is charged to his credit

or debit card. The amount of the balance of the discounted price charged to his account funds the second payment to the pharmacy as well as the first and second service fees. Thus, the pharmacy receives the discounted price less the two service fees (sum of co-pay and second payment).

The Examiner has cited the Oscar, Ullman and Freeman references against claim 1.

Oscar, Ullman and Freeman, taken alone or in any combination, do not teach or suggest the method claimed that ensures that a subscriber to a prescription benefits plan receives a discount from the pharmacy which he engages. There is no teaching or suggestion in any of the references cited by the Examiner of a method to ensure that a subscriber to a prescription benefits plan receives a discount from a pharmacy. None of the other references cited against dependent claims suggests the invention either alone or in any combination.


In addition, the claims have been amended to ensure that they satisfy the requirements of under 35 U.S.C. §101, i.e., that they are tied to a machine or apparatus or transform an article to a different state or thing. In particular, claim 1 ties the claimed steps together so that there is an interconnection of the claimed processor, the creditor, the PBM and the pharmacy over an electronic communications network. Therefore, the steps of the present invention cannot be implemented manually, but must rely on an electronic communications network. Thus, the claims are adequately tied to a particular machine or apparatus. Further, claim 1 also transforms something, i.e., electronic data representing a subscriber, into an eligibility profile for ensuring that the subscriber receives a discount from the pharmacy with which he is dealing.

In view of the above, Applicants submit that all claims in this application are now in condition for allowance, prompt notification of which is requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON June 4, 2009.

LCD/jh:ck

Respectfully submitted,



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